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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,858	05/30/2001	Todd D. Andersen	P1065	8680

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,858

Applicant(s)

ANDERSEN ET AL.

Examiner

James R Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Priority

If applicant desires priority under 35 U.S.C. 119(e) based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed on or after November 29, 2000, any claim for priority must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2) and (a)(5). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) a surcharge under 37 CFR 1.17(t), and (2) a statement that the entire delay

between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition should be directed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McCarthy (US 4917677).

McCarthy (figures 10-12) teaches adjustable clip assembly structure with first and second opposing jaw portions, the jaw portions having first ends joined together and second ends that are spread apart so as to define a receiving area. There are adjustment screw operators for bringing the jaws into engagement. In the species of figure 10, the knob 31 can be turned to manipulate the screw. In the species of figures 49, the internally threaded knob 49 can be turned to tighten the jaws.

Claims 1-3, 5 and 8-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kelly (US 4097169).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions have first ends 25, 26 joined together

and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing-nut 53 acting as a knob for bringing the jaws into engagement. The jaws 15, 16 are arcuately contoured for engaging sheet material of a tarpaulin positioned therebetween.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Cameron (US 5388313).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions have first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing-nut 53 acting as a knob for bringing the jaws into engagement. The jaws 15, 16 are arcuately contoured for engaging sheet material of a tarpaulin positioned therebetween. The difference is that the jaws lack interfitting ridges for gripping. However, Cameron (figures 5, 10) teaches tarpaulin clamp structure including interfitting ridges on the inner surfaces of the jaws so as to better grip the tarpaulin. It would have been obvious to modify the tarpaulin clamp of Kelly so that rather than the arcuate configuration, an interfitting ridge pattern is used for the gripping jaws as suggested by Cameron so as to better engage tarpaulin material itself without

use of a rod, a simpler installation. As to claims 17, 18 and 20, Kelly utilizes apertures 34, 35 to secure the clamp to a rope and it would have been obvious to place the rope connection beyond the jaw portions in view of Cameron suggesting such a location in figure 10 so as to better control the clamp.

Claims 11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Holsey (US 969695).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions have first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing-nut 53 acting as a knob for bringing the jaws into engagement. The jaws 15, 16 are arcuately contoured for engaging sheet material of a tarpaulin positioned therebetween. The difference is that the jaws lack teeth on one jaw interfitting within sockets in the opposite jaw. However, Holsey (figures 1-4) suggests utilizing hemispherical protrusions 13 on one jaw interfitting within receiving sockets 14 on the opposite jaw as being a desirable configuration for holding sheet bag material securely without tearing. It would have been obvious to modify the clamp of Kelly so that the jaws have hemispherical protrusions on one jaw interfitting within receiving sockets on the opposite jaw in view of Holsey suggesting such structure as being desirable in the holding of sheet material without tearing.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Cameron (US 5388313) as applied to claim 17 above, and further in view of Youngblood (US 714348).

Further modification of the clamp of Kelly so rather than positioning the opening beyond the jaws as suggested by Cameron, there is a hook located at that position would have been obvious in view of Youngblood (figure 2) which suggest hammock clamp structure with a hook 18 positioned beyond the clamp.

Allowable Subject Matter

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Kelly (US 4733988), Byers et al. (US 5046222), Spencer (US 794561), Levine et al. (US 4170995), Ouzoun-Boghossian (US 1331851), Moore (US D386076) and Schmitz et al. (EP 853930) teach pertinent clamp structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J. R. Brittain', with a stylized flourish extending to the right.

James R Brittain
Primary Examiner
Art Unit 3626

JRB
March 25, 2002